

## **REMARKS**

The above amendments and these remarks are responsive to the Office action dated March 24, 2005, in which Claims 1-27 of the present application were pending. In this Office action, the Examiner withdrew the allowability of claims 2, 8, 9-13 and 18-26. The Examiner subsequently rejected all claims under 35 U.S.C. § 102 or § 103. After rejection of all claims, the Examiner also restricted the disclosure to three species. In view of the Applicant's election, amendments, and remarks, applicant respectfully requests reconsideration of the application under 37 C.F.R. § 1.111 and allowance of the pending claims.

### ***Response to Restriction Requirement***

In response to the restriction requirement, the Applicant elects to prosecute Group I, which includes claims 1-2 and 4-17 and 27. Although the Examiner did not indicate that claim 27 is part of Examiner's Group I, the Applicant believes that this was merely due to oversight, as claim 27 depends on independent claim 4 and was not classified by the Examiner as being a part of any of the three groups. Therefore, the Applicant has included claim 27 in the elected group.

### ***Drawing Requirements***

The Examiner requested that a new drawing be added showing an alternative embodiment of a support member claimed in claim 15, which relates to the support member having a substantially rectangular cross section. The new drawing has been added and labeled as such, and all drawings are now attached.

**Amendments to the Drawings:**

Please add new the following new drawing sheet.

Attachment: New Drawing Sheet containing Fig. 6

***Rejections under 35 USC § 102***

In the Office action, the Examiner rejected claims 1, 2, 4-12, 14, 15 and 27 under 35 U.S.C. § 102(b) as being anticipated over numerous references. In view of the amended claims, Applicant respectfully submits that none of these references, alone or in combination, teach or suggest the elements of the above claims, and that such claims should therefore be deemed allowable.

First, the Examiner rejected claims 1, 2, and 14 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,433,741 to Parker.

Parker discloses a vehicle attached bed for use in connection with camping or other traveling activities, such as various tourist activities. A housing is attached to the running board of a car, where the components of the bed are stored while the vehicle is in use. (Page 1, lines 65-67). When the vehicle is not in use, the bed may be assembled. Two rails attach to the running board and extend outwards where they connect to a connecting rod. (Page 1, lines 107-110). A roll of coiled spring is then extended from the housing and connected to the rails and support member of the bed. (Page 2, lines 53-58). Parker does not disclose a device that attaches to the roof of a vehicle.

Independent claims 1 and 14 now recite a rack device comprising first and second crossbars, each crossbar being attachable via a pair of tower devices rigidly across the roof of a vehicle such that the crossbars are oriented in parallel to each other perpendicular to the vehicle's direction of travel, a plurality of boat saddles connected to the crossbars for supporting a boat on top of the vehicle in transit, and a support member that telescopes independently out of one of the crossbars to assist in loading a boat on to

saddles on top of a car. None of the references of record in any combination teach or suggest the recited rack device for carrying a boat on top of a car.

Parker fails to teach or suggest "a pair of crossbars configured to be secured to a roof of a vehicle." Parker's rails have been shown to attach to the running board of a car on one end and rest on the ground with the help of a support member on the other end. Therefore, the Applicant submits that Parker does not teach or suggest every element of claims 1 and 14 and therefore cannot be said to anticipate. Because claim 2 depends on claim 1, the Applicant believes that claim 2 is allowable for at least the same reasons as claim 1.

The Examiner also rejected claims 1, 2, 14, and 15 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,729,499 to Eggum.

Eggum discloses an auxiliary frame for truck beds that functions to increase a truck bed's storage capacity. This frame has two mounted sleeves that sit inside the bed of a truck, pointed in the truck's direction of travel. (Col. 2, lines 38-40) Inside these sleeves are telescoping arms, both ends of which connect to an upright retaining member. (Col. 3, ll. 7-16). The upright retaining member may be pulled outwards, away from the truck, which pulls the telescoping arms out of the mounted sleeves, increasing the storage capacity of the truck. (Col. 3, ll. 55-60). Like Parker, Eggum does not disclose a rack device that mounts to the roof of a vehicle.

Again, claims 1 and 14 recite roof top crossbars, towers, boat saddles, and an independently telescoping support member. Eggum does not disclose such crossbars configured to secure to the roof of a vehicle, but instead teaches a frame that mounts in the bed of a truck. Eggum also fails to teach or suggest such an element because an

auxiliary frame for a truck bed would not function if mounted to the roof of a truck. Because Eggum does not teach or suggest every claim element of claims 1 and 14, Eggum does not anticipate the claims. As claim 2 depends off of claim 1, and claim 15 depends off of claim 14, claims 2 and 15 should likewise be allowable for at least the same reason.

Claims 1, 2, 4-12, 14, 15 and 27 were also rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,596,788 to Wille.

Wille discloses a telescopic retractable camper meant to be mounted to the roof of a car. This camper sits on telescoping bars, which in turn sit on conventional luggage supports on a car's roof. (Col. 2, lines 3-11, 67-71). When the user desires to use the camper or tent, bars telescope out towards the ground until the tent rests on the ground. The user may then assemble the tent for use, and reverse the process when they are finished. (Col. 4, lines 40-47, 51-52).

In the current application, claims 1 and 14 includes a single support member that telescopes out of an end of a the first of the pair of crossbar to at least one extended position. Similarly, claim 14 recites "a single elongate support member having a distal end portion, the support member being configured to telescope out of an end of the first of the pair of crossbar."

Wille does not disclose or suggest a "single support member" that telescopes out of a crossbar. Instead, the device in Wille discloses at least two support members, each telescoping out of a telescoping bar. Two support members telescoping together would defeat the purpose of the claimed invention because one extended support member would interfere with loading while the other is used to assist with loading. In this regard, all of the

art of record which teaches two telescoping supports teaches away from the claimed invention. Furthermore, the Applicant notes that the Wille device could not function with a single support member, as the device needs at least two support members to balance the camper on top.

Therefore, Wille does not disclose all of the elements present in claims 1 and 14 and therefore does not anticipate these claims.

Claims 1, 2, 4-12, 14, 15 and 27 were also rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,217,149 to Simonett. Simonett discloses an article carrier rack, capable of attaching to load-carrying racks for vehicles, and in particular bicycles. The device includes two cross tube assemblies and four L-shaped support arms located within the four ends of the cross tube assemblies. (Cols. 4-5, lines 64-3). The L-shaped support arms may slide in and out of the cross tubes (Col. 5, lines 32-33), and may be locked at a user-selected extended position. (Col. 6, lines 26-31). Simonett does not disclose a rack device with a single support member that telescopes out of a crossbar mounted on a vehicle roof.

### ***Rejections under 35 USC § 103***

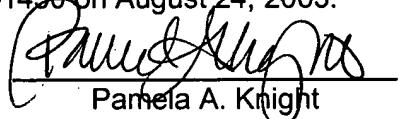
Claims 1, 2, and 14-18 were rejected under 35 U.S.C. § 103(a) as being anticipated numerous references. In view of the amended claims, the Applicant respectfully submits that none of these references, alone or in combination, teach or suggest all of the elements of the above claims, and that such claims should therefore be deemed allowable. All of the dependent claims are allowable for the same reasons already presented with respect to independent claims 1 and 14.

Accordingly, Applicant submits that claims 1, 2, 5-8, and 13-18 as amended are patentable over the art of record, and should be deemed allowable.

Applicant believes that this application is now in condition for allowance, in view of the above election, amendments, and remarks. Accordingly, applicant respectfully requests that the Examiner issue a Notice of Allowability covering the pending claims. If the Examiner has any questions, or if a telephone interview would in any way advance prosecution of the application, please contact the undersigned attorney of record.

**CERTIFICATE OF MAILING**

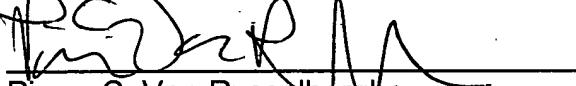
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on August 24, 2005.



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Respectfully submitted,

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